IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 2375 of 2003

Between:

1. C.P.Rama Rao, S/o.Veera Raghava Rao, R/o.Flat No.304, Kirlampudi Arcade, Visakhapatnam-2.

2. Smt.J.Mahalakshmi Eswaramma, W/o.Gopala Krishna Murthy, House Wife, R/o.D.No.4-46-11, G.K.Mansions, Peda Waltair Junction, Visakhapatnam – 17.

..... PETITIONER

AND

1. The Sub-Registrar, Gopalapatnam, Visakhapatnam District.

2. The District Registrar, Visakhapatnam.

3. The Joint Collector, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any

writ, order or direction more particularly one in the

nature of Writ of Mandamus declaring the Memo issued by the 2nd respondent in Memo.No.1340/G2/47-A/02 dated 23.12.2002 directing the 1st respondent to act upon the directions of the 3rd respondent and the 1st respondent

not registering and returning the Sale Deeds dated 02.02.2002 as per Section 61 of

Indian Registration act

as illegal, arbitrary, capricious, unwarranted and unjust

and consequently to set aside the impugned Memo No.1340/G2/47-A/02 dated 23.12.2002 issued by the 2nd respondent and direct the 1st respondent to register the above Sale Deeds i.e. P.30 and P.31 of 2002 respectively and release them within the time stipulated by this Court.

Counsel for the Petitioners: SMT.N.(P).ANJANA DEVI, P.SATYANARAYANA

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

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ORDER:

When petitioners presented two documents for registration, the Sub-Registrar, Gopalapatnam, refused to register the same on the ground that they are covered by the Notification issued by the Government in G.O.Ms.No.511, Revenue (Registration-I) Department, dated 28-07-2000 published in the District Gazette, Extraordinary, dated 25-08-2000. Appeal preferred by the petitioners to the District Registrar was dismissed. Hence, this writ petition.

2. The main contention of the learned counsel for the petitioners is that both the Sub-Registrar and District Registrar erred in refusing to register the documents without looking into the documents properly and contends that the Notification relied on by the Sub-Registrar and District Registrar relate to Survey No.4, T.D.No.488, whose extent is Ac.0-36 cents only, but the land covered by the sale deeds, presented by the petitioners for registration, is Ac.1-00 and Ac.3-00 respectively in Survey No.4 within the boundaries mentioned in the sale deeds and even from the Gazette notification dated 15-05-1957, issued by the District Gazette of the Collector, it is seen that there are two T.D numbers in Purushottapuram Agraharam Village of Visakhapatnam District and in T.D.No.3050, Survey No.4 is shown as the personal property of the individuals and in Survey No.4 of T.D.No.488, Ac.0-36 cents is shown as Enfranchised Service Inams Bariki and it is only in respect of that Ac.0-36 cents in S.No.4 of T.D.No.488, the Notification was issued by the Government, and contends that had the Sub-Registrar and the District Registrar gone through the register properly, they would not have refused registrations and contends that the Sub-Registrar and District Registrar seem to have acted on the executive instructions issued by the Collector not to register the documents in that

village and since the land covered by the sale deeds is different from the land mentioned in Section 22-A Notification issued by the Government, the order refusing to register the documents is liable to be set aside. It is also his contention that the Mandal Revenue Officer, by

his certificate dated 16-11-2004, certified that lands in S.No.4, 5 and 6 of Purushothapuram Agraharam of Erstwhile Visakhapatnam Taluk, which are presently in Pendurthi Mandal, claimed by the petitioners, are Personal Inami Dry and Wet Lands under T.D.No.3050 and are

not covered by the Government institutions, and contends that the plan filed by the petitioners showing topography of lands in two T.D. numbers with corresponding Survey Numbers also clearly establishes that the land covered by the sale deeds is different from the land notified under Section 22-A Registration Act.

3. The contention of the learned Government Pleader is that since the land in S.No.4 is notified under Section

22-A Registration Act and since question as to whether the land covered by the sale deeds is in the land covered by Section 22-A Notification or not is a question of fact, remedy of the petitioner is either to question the Notification issued under Section 22-A of Registration Act or to file a civil suit.

4. The question whether the lands covered by the sale deeds relate to T.D.No.3050 or T.D.No.488, and if they are covered by the Notification issued by the Government under Section 22-A Registration Act or not is a question of fact, which has to be decided after taking into consideration the boundaries mentioned in the sale deed, F.M.B. etc. This apart, petitioners have an effective alternative remedy of suit under Section 77 Registration Act. In such a suit, the Civil Court would go into all the disputed questions of fact and grants appropriate relief depending on the facts of the case.

5. In the above circumstances, in my considered opinion, petitioners are not entitled to any relief in this petition, and have to file a suit under Section 77 Registration Act.

Hence, the writ petition is dismissed. No costs.

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(C.Y.SOMAYAJULU, J)

Dated February 10, 2005.

YCR/CS

To

1. The Sub-Registrar, Gopalapatnam, Visakhapatnam District.
2. The District Registrar, Visakhapatnam.
3. The Joint Collector, Visakhapatnam.
4. 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT)
5. 2 C.D. copies.